

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

ECOLAB Inc., and NALCO COMPANY,
LLC d/b/a Nalco Water, an Ecolab Company
and/or Nalco Water,

Case No. 3:23-cv-00102

Plaintiffs,

JESSICA GRAILER,

Defendant.

PLAINTIFFS' MOTION TO SEAL COURT FILING DKT 74-1

Plaintiffs Ecolab Inc. and Nalco Company LLC (together, "Plaintiffs") hereby move to seal Dkt. 74-1, previously filed in this action.

The basis for this motion is:

1. On August 29, 2023, prior counsel for Plaintiffs filed Dkt. 74, Declaration of James M. Hux, Jr. with two exhibits. Dkt. 74 and its exhibits were not filed under seal.

The undersigned subsequently assumed representation of Plaintiffs.

2. Plaintiffs now request that Dkt. 74-1, "Exhibit 1 – Audit," be sealed from public access on the Court's docket system.

3. On February 26, 2023, Defendant filed the Deposition of Laurence D. Lieb and the Declaration of Matthew Splitek, including eight (8) exhibits to Laurence Lieb's Deposition. *See* Dkts. 115, 119.

4. Upon review of those filings, counsel for Plaintiffs identify documents among Defendants' filings that Plaintiffs assert should have been filed under seal and promptly reached out to counsel for Defendant to raise the issue. *See* Dkt. 121, ex. 1,

Feb. 29, 2024, emails at 10:57 a.m. & 11:31 a.m.; *see also* Dkt. 35, Agreed Protective Order ¶ 7 (controlling “Inadvertent Failure to Designate and/or Inadvertent Production,” including a protocol for designation and remedial steps “reasonably necessary to conform distribution to the categorial designation”). Counsel for Defendant noted that one of those documents had been filed on the public docket by Plaintiffs’ prior counsel. *See* Dkt. 121, ex. 1.

5. Pursuant to these communications between counsel, on February 29, 2024, Defendant filed an Emergency Motion to Seal. Dkt. 121. Defendant’s Emergency Motion to Seal requested that the court seal eight (8) documents previously filed in this action, at Plaintiffs’ request.

6. Defendant’s Emergency Motion to Seal indicated to the Court that Plaintiffs would likewise be filing the present motion to seal Dkt. 74-1. *See* Dkt. 121, Emergency Motion to Seal ¶ 3.

7. Pursuant to Plaintiffs’ discovery of the prior erroneous failure to file Dkt. 74-1 under seal, and after communicating in good faith with counsel for Defendant, Plaintiffs respectfully request that the Court seal Dkt. 74-1.

Respectfully submitted this 29th day of February, 2024.

Dated: February 29, 2024

/s/ David Yoshimura
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